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12 UNITED STATES DISTRICT COURT

13 FOR THE CENTRAL DISTRICT OF CALIFORNIA

14 UNITED STATES OF AMERICA,) CR No. 11-436(A) -MRW
15 Plaintiff,)
16 v.) GOVERNMENT'S MOTION IN LIMINE
17) TO PRECLUDE A GOOD FAITH
JOEL CIRILO SOSA HERNANDEZ,) DEFENSE; DECLARATION OF CRAIG
18 Defendant.) PORTER; EXHIBITS
19)
20) Trial Date: December 6, 2011
21) Trial Time: 9:00 a.m.
22)

23 Plaintiff United States of America, by and through its
24 counsel of record, the United States Attorney for the Central
25 District of California, hereby files its motion in limine to
26 preclude a good faith defense.

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28 //

1 The government's motion in limine is based upon the attached
2 memorandum of points and authorities, the files and records in
3 this case, the attached declaration and exhibits, and any other
4 evidence or argument that the Court may wish to consider during
5 the next scheduled hearing.

6 DATED: November 18, 2011

Respectfully submitted,

7 ANDRÉ BIROTTE JR.
8 United States Attorney

9 ROBERT E. DUGDALE
Assistant United States Attorney
10 Chief, Criminal Division

11 _____
12 /s/
JAMES M. LEFT
13 Special Assistant United States
Attorney

14 Attorneys for Plaintiff
15 United States of America
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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 At trial, the government intends to introduce evidence
3 concerning the employment applications of the female employees of
4 the 907 Club. An Employment Eligibility Verification (Form I-9)
5 was attached to almost every application. (Declaration of Craig
6 Porter ¶ 2, hereinafter "Porter Declaration"). For each
7 employee, a person or entity must attest under penalty of perjury
8 in a Form I-9 that the person or entity has verified that the
9 employee is authorized for employment in the United States. 8
10 U.S.C. § 1324a(b)(1)(A); 8 C.F.R. §§ 274a.2(a)(3) and (b)(1)(B).
11 This is part of the employment verification process. See
12 generally 8 U.S.C. § 1324a(b); 8 C.F.R. § 274a.2.

13 The records from the 907 Club contain over 800 employment
14 applications. (Porter Declaration ¶ 2). With two exceptions,
15 none of the employment verification sections of the Form I-9s for
16 the female employees of the 907 Club were properly completed.
17 (Id. ¶ 3). In some cases, the employee filled out the top
18 section and the rest of the Form I-9 was left blank. (Id.;
19 attached example, Exhibit A). In other cases, the entire Form I-
20 9 was left blank. (Porter Declaration ¶ 3; attached example,
21 Exhibit B). Given the 907 Club management's consistent failure
22 to complete the Form I-9s, which included the inaction of
23 defendant, who was a manager at the club, defendant cannot raise
24 a good faith defense that he did not knowingly hire and continue
25 to employ illegal aliens.

26 Title 8, United States Code, Section 1324a(a)(3) provides
27 that a person who establishes that he has complied in good faith
28 with the requirements of the employment verification process

1 "with respect to the hiring, recruiting, or referral for
2 employment of an alien in the United States" may establish an
3 affirmative defense that he did not knowingly hire an alien who
4 was not authorized for employment in the United States. See also
5 8 U.S.C. § 1324a(b)(6)(A) (good faith defense available for an
6 individual who complied with the employment verification process
7 except for a technical or procedural violation). However, a good
8 faith defense is not available to an individual who fails to
9 properly complete a Form I-9. Maka v. INS, 904 F.2d 1351, 1360
10 (9th Cir. 1990). Furthermore, a good faith defense is not
11 available to an individual who engages in "a pattern or practice"
12 of hiring and continuing to employ illegal aliens.¹ 8 U.S.C.
13 § 1324a(b)(6)(C).

14 //

15 //

26 ¹ This same language referring "a pattern or practice" of
27 hiring and continuing to employ illegal aliens appears in the
28 section of statute that triggers criminal penalties. 8 U.S.C.
§ 1324a(f)(1) (referencing 8 U.S.C. § 1324a(a)(1)(A) and (a)(2)).

1 In this case, evidence will show that defendant consistently
2 failed to complete the Form I-9s for the illegal aliens that he
3 knowingly hired. Thus, the Court should preclude defendant from
4 asserting that he had a good faith belief that he hired only
5 aliens who were authorized for employment.

6 DATED: November 18, 2011

Respectfully submitted,

7 ANDRÉ BIROTTE JR.
8 United States Attorney

9 ROBERT E. DUGDALE
10 Assistant United States Attorney
11 Chief, Criminal Division

12 /s/
13 JAMES M. LEFT
14 Special Assistant United States
15 Attorney

16 Attorneys for Plaintiff
17 United States of America
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DECLARATION OF CRAIG PORTER

1. I am a Special Agent with the United States Department of Homeland Security, U.S. Immigration and Customs Enforcement. I am assigned to the Work Site Enforcement Unit of the Los Angeles district office. I am also the lead case agent concerning the case involving the 907 Club. I am knowledgeable of the facts set forth therein, and if called to testify, I would be able to testify as to the following facts.

2. On November 5, 2010, officers from the Los Angeles Police Department executed a search warrant against the 907 Club and seized numerous records, including over 800 employment applications. ICE is now in possession of these records, including the employment applications, and I have reviewed these documents. A Form I-9 is attached to almost all of the employment applications.

3. With two exceptions, none of the employment verification sections of the Form I-9s for the female employees of the 907 Club were completed. In some cases, the employee filled out the top section and the rest of the Form I-9 was left blank. (See attached example Exhibit A). In other cases, the entire Form I-9 was left blank. (See attached example Exhibit B).

I hereby certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: November 18, 2011



Craig Porter

EXHIBIT A

#17

Fernanda

907 CLUB

Name/Nombre Laura Guzman Villalpando

Address/Direccion [REDACTED]

City/Ciudad West Covina Ca Zip Code 91790

Telephone: [REDACTED] Or ()

SSN [REDACTED]-[REDACTED]-4130

ID No. _____

No. of Dependents 6

How did you know about the club/ Como se entero del club: Periodico

Experience as Hostess/Experiencia como compa era de baile: _____ Where/Donde _____

I understand that if I am hired I will follow the rules of 907 Club and I will have my ID at all times.

Entiendo que si me contratan cumplire todas las reglas del 907 Club y tendre una identificacion valida todo el tiempo.

[Signature]

Firma /Signature

08-24-2009

Date/Fecha

U.S. Department of Justice
Immigration and Naturalization Service

OMB No. 1115-0136

Employment Eligibility Verification

Please read instructions carefully before completing this form. The instructions must be available during completion of this form. **ANTI-DISCRIMINATION NOTICE.** It is illegal to discriminate against work eligible individuals. Employers CANNOT specify which document(s) they will accept from an employee. The refusal to hire an individual because of a future expiration date may also constitute illegal discrimination.

Section 1. Employee Information and Verification. To be completed and signed by employee at the time employment begins

Print Name: Last <u>Guzman</u>	First <u>Laura</u>	Middle Initial <u>LG</u>	Maiden Name
Address (Street Name and Number) [REDACTED]		Apt. # <u>91790</u>	Date of Birth (month/day/year) <u>11-11-68</u>
City <u>West Covina</u>	State <u>Ca.</u>	Zip Code	Social Security # <u>[REDACTED]-[REDACTED]-4130</u>

I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.

I attest, under penalty of perjury, that I am (check one of the following):

☐ A citizen or national of the United States

☐ A Lawful Permanent Resident (Alien # A _____)

☐ An alien authorized to work until ____/____/____ (Alien # or Admission # _____)

Employee's Signature: [Signature] Date (month/day/year) _____

Preparer and/or Translator Certification. (To be completed and signed if Section 1 is prepared by a person other than the employee.) I attest, under penalty of perjury, that I have assisted in the completion of this form and that to the best of my knowledge the information is true and correct.

Preparer's/Translator's Signature

Print Name

Address (Street Name and Number, City, State, Zip Code)

Date (month/day/year)

Section 2. Employer Review and Verification. To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C as listed on the reverse of this form and record the title, number and expiration date, if any, of the document(s)

List A	OR	List B	AND	List C
Document title: _____		_____		_____
Issuing authority: _____		_____		_____
Document #: _____		_____		_____
Expiration Date (if any): ____/____/____		____/____/____		____/____/____
Document #: _____		_____		_____
Expiration Date (if any): ____/____/____		____/____/____		____/____/____

CERTIFICATION - I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment on (month/day/year) ____/____/____ and that to the best of my knowledge the employee is eligible to work in the United States. (State employment agencies may omit the date the employee began employment).

Signature of Employer or Authorized Representative	Print Name	Title
Business or Organization Name	Address (Street Name and Number, City, State, Zip Code)	Date (month/day/year)

Section 3. Updating and Reverification. To be completed and signed by employer

A. New Name (if applicable)	B. Date of rehire (month/day/year) (if applicable)
C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment eligibility.	
Document Title: _____	Document #: _____
Expiration Date (if any): ____/____/____	
I attest, under penalty of perjury, that to the best of my knowledge, this employee is eligible to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.	
Signature of Employer or Authorized Representative	Date (month/day/year)

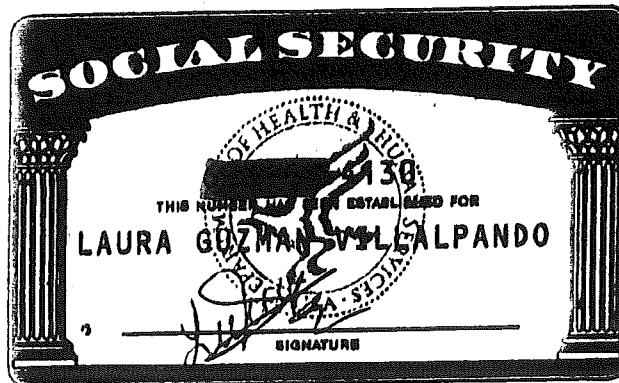
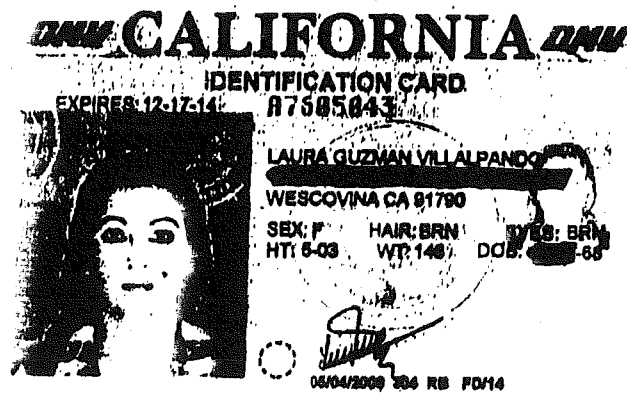


EXHIBIT B

907 CLUB

Re-hire # 187

Name/Nombre Olya Jessma Valdez

Address/Dirección [REDACTED] [REDACTED] [REDACTED]

City/Ciudad Panorama city Zip Code 91402

Telephone: () - -

SSN _____

ID No. _____ No. of Dependents 4

How did you know about the club/ Como se entero del club:

Experience as Dance Hostess/Experiencia como compa era de baile: _____ Where/Donde _____

I understand that if I am hired I will follow the rules of 907 Club and I will have my CA ID at all times.

Entiendo que si me contratan cumplire todas las reglas del 907 Club y tendre una identificacion de California valida todo el tiempo.

Om Prakash
Firma /Signature

03-20-09.
Date/Fecha

03-20-09

OMB No. 1615-0047; Expires 06/30/08

Department of Homeland Security
U.S. Citizenship and Immigration Services

Form I-9, Employment Eligibility Verification

Please read instructions carefully before completing this form. The instructions must be available during completion of this form.

ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work eligible individuals. Employers CANNOT specify which document(s) they will accept from an employee. The refusal to hire an individual because the documents have a future expiration date may also constitute illegal discrimination.

Section 1. Employee Information and Verification. To be completed and signed by employee at the time employment begins.

Print Name: Last	First	Middle Initial	Maiden Name
Address (Street Name and Number)		Apt. #	Date of Birth (month/day/year)
City	State	Zip Code	Social Security #

I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.

I attest, under penalty of perjury, that I am (check one of the following):

- ☐ A citizen or national of the United States
☐ A lawful permanent resident (Alien #) A _____
☐ An alien authorized to work until _____

(Alien # or Admission #) _____

Employee's Signature

Date (month/day/year)

Preparer and/or Translator Certification. (To be completed and signed if Section 1 is prepared by a person other than the employee.) I attest, under penalty of perjury, that I have assisted in the completion of this form and that to the best of my knowledge the information is true and correct.

Preparer's/Translator's Signature

Print Name

Address (Street Name and Number, City, State, Zip Code)

Date (month/day/year)

Section 2. Employer Review and Verification. To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C, as listed on the reverse of this form, and record the title, number and expiration date, if any, of the document(s).

List A	OR	List B	AND	List C
Document title: _____		_____		_____
Issuing authority: _____		_____		_____
Document #: _____		_____		_____
Expiration Date (if any): _____		_____		_____
Document #: _____		_____		_____
Expiration Date (if any): _____		_____		_____

CERTIFICATION - I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment on (month/day/year) _____ and that to the best of my knowledge the employee is eligible to work in the United States. (State employment agencies may omit the date the employee began employment.)

Signature of Employer or Authorized Representative

Print Name

Title

Business or Organization Name and Address (Street Name and Number, City, State, Zip Code)

Date (month/day/year)

Section 3. Updating and Reverification. To be completed and signed by employer.

A. New Name (if applicable)

B. Date of Rehire (month/day/year) (if applicable)

C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment eligibility.

Document Title: _____

Document #: _____

Expiration Date (if any): _____

I attest, under penalty of perjury, that to the best of my knowledge, this employee is eligible to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.

Signature of Employer or Authorized Representative

Date (month/day/year)



CALIFORNIA **DMV**

DRIVER LICENSE CLASS: C
A8763771

OLGA YESSENIA VALDEZ
PANORAMA CITY CA 91402

SEX: F HAIR: BLK
HT: 5-05 WT: 128

09/11/2012 617 N31D/06



SOCIAL SECURITY

7919

THIS NUMBER HAS BEEN ESTABLISHED FOR

OLGA YESSENIA VALDEZ

Olga Y. Valdez
SIGNATURE

